

COMMONWEALTH OF VIRGINIA

SENATOR MAMIE LOCKE, Chair
DELEGATE DANIEL MARSHALL, III, Vice-chair
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VIRGINIA HOUSING COMMISSION

SUMMARY

Affordable Housing, Real Estate Law, and Mortgages Work Group September 17, 2014, 1:00 PM Senate Room A, General Assembly Building

I. Call to Order - Affordable Housing, Real Estate Law, and Mortgages Work Group

Delegate Danny Marshall, Chair, called the meeting to order at 10:00 AM.

Work Group members in attendance: Delegate Daniel Marshall, *Chair*; Delegate Rosalyn Dance; Delegate Barry Knight; Senator Mamie Locke; Senator George Barker; Mark Flynn, *Governor Appointee/Virginia Municipal League*; T.K. Somanath, *Governor Appointee*; Neal J. Barber, *Community Futures*; Steve Baugher, *Virginia Association of Mortgage Brokers*; Paul Brennan, *Virginia Housing Development Authority*; Robert N. Bradshaw, *Independent Insurance Agents of Virginia*; J.G. Carter, *SunTrust*; Tyler Craddock, *Manufactured & Modular Housing Association*; Chip Dicks, *Virginia Association of Realtors*; Andrew M. Friedman, *Virginia Beach Dept. of Housing & Neighborhood Preservation*; Kelly Harris-Braxton, *Virginia First Cities*; Shea Hollifield, *Dept. of Housing and Community Development*; Kelly King Horne, *Homeward*; Erik Johnston, *Virginia Association of Counties*; John H. Jordan, *Manufactured Housing Communities of Virginia*; Renee Pulliam, *Virginia Apartment Management Association*; Jay Speer, *Poverty Law Center*; Michael Toalson, *Home Builders Association of Virginia*; William Walton, *Real Property, Inc.*; Michele Watson, *Virginia Housing Development Authority*.

Staff: Elizabeth Palen, *Executive Director of VHC*

II. Sub Work Group Report of Asbestos (HB 179; Farrell, 2014)

- **Elizabeth Palen, Executive Director, VHC:** The workgroup made recommendations: (1) the Virginia Department of Industry explore ways to make workers and others on the job site be more aware of asbestos issues in a more user friendly way with more conspicuous signs. There was no agreement whether the signs should be in Spanish or other languages.
 - (2) A letter was sent to the Department of Housing and Community Development asking that the Virginia Building Code Academy include a training module for building code officials that includes awareness and review of asbestos as part of its training for its building inspectors.

- (3) Trisha Henshaw agreed to ask the Virginia Board for asbestos health inspectors to propagate legislation regarding changes in name only of rouge contractors who have previous violations.
- **Trisha Henshaw**, *Executive Director, Board for Asbestos, Lead, and Home Inspectors*: I took the concept back to the board, and we decided. Because the Board for Contractors is the precursor to getting licensed as a contractor through the Asbestos, Lead and Home Inspectors Board, it would be duplicative and cause delays to have that entity go through the same process through the Asbestos, Lead and Home Inspectors board. We are confident that the provisions under the Board of Contractors would identify any issues.
- **Palen**: This committee needs to decide if they want to the Full Commission to send a letter to the Department of Housing and Community Development, and send a letter to the Virginia Department of Labor strongly encouraging them to provide better signage.
- **Marshall**: Was there a consensus in the workgroup to do that?
 - **Palen**: Yes.
- **Marshall**: What is this work group's opinion?
- **The workgroup agreed with the subcommittee's findings, and it went forward to the Full Commission.**

III. Status Update

- **Commercial Tennant Eviction**
- **Palen**: In Roanoke, some commercial businesses were having issues with raucous tenants, and the landlords felt they needed more tools to evict them. We looked into language changes on how to more smoothly evict commercial tenants. A previous meeting postponed until November, and the issue is still to be resolved.
- **Retaliatory Eviction**
- **Christine Marra**, *Attorney, Virginia Poverty Law Center*: Last session, Delegate Lopez introduced legislation that would change the standard of proof in retaliatory eviction cases to match up with what many other states do.
 - If a landlord takes certain negative actions toward the tenant with a certain period of time after a tenant committed a protected act, then there would be a presumption due to the closeness in time that the action of the landlord is retaliatory. This piece of legislation was designed to insert that presumption into law.

IV. Manufactured Home Privacy/Lease Issue

- **Palen**: Sen. Barker brought this issue to the district because he was approached regarding a situation where some constituents are living in a manufactured housing community, where they rent the land, but not the manufactured housing. The landlord has been conducting periodic, unannounced inspections of the individual manufactured homes due to the park owner's suspicion that there were too many people living in each home. While

there is a provision in their lease that allows the owner of manufactured housing park to come into their homes in emergencies, this was not one of the outlines reasons you could enter their homes.

- **Tyler Craddock**, *Virginia Manufactured & Modular Housing Association*: We have met with Sen. Barker. The tenants in this community are being asked to sign lease provision that provides the ability for the park owner to come into an owned home and conduct these inspections. In this instance, this is not addressed in the Virginia Manufactured Home Lot Rental Act. We are happy to work with Sen. Barker to close this legislative hole.
- **Palen**: The organizations that represent the manufacture home communities are taking an active role in realizing there is a gap. This particular issue happened in Prince William County, but there have been other similar issues in other localities throughout the Commonwealth in the past.
- Senator Mamie Locke : Are we talking about a situation were people are renting the land but do not own the manufactured home?
 - **Marshall**: They are renting the land, but own the manufactured home.
 - **Palen**: Its analogous to a Home Owner's Association, where the park owner usually takes care of electrical and sewage issues of the park. However, in a Home Owner's Association they do not enter your home even those are services provided to you as a homeowner.
- **Renee Pulliam**, *Virginia Apartment Management Association*: Is it detailed that a park owner can enter a residence in an emergency?
 - **Palen**: Yes, that is described in landlord tenant Law, not under the manufactured home.
- **Marshall**: Does landlord tenant law apply under this situation?

Chip Dicks, *Virginia Association of Realtors*: It is not traditionally covered by these sections of the Code
- **Marshall**: Can the person who owns the land, but not the manufactured homes have authority rights to inspect he home they do not own?
 - **Dicks**: Unless it's specified otherwise in the lease, the unilateral inspection would not be allowed.
- **Toalson**: Could liability arise for the property owner in other instances, like if the manufactured had issues regarding compliance with the Property Maintenance Code? If one of the lessee's invitees were injured by some condition in the manufactured home, could they attempt to hold the landowner liable under the theory that they had an obligation to ensure the manufactured homes on their lots are under full compliance with applicable codes and regulations?
 - **Dicks**: There are generally provisions in the lease that address liability issues. Under the Property Maintenance Code, the owner or occupant is responsible for compliance with all aspects of the building code. Therefore, the local

building code official could enforce those provision against a violator, whether that be the occupant, or owner of the manufactured home in this case, or the underlying lot owner.

- **Toalson:** Would the park owner's recourse would be to ask for the local authority to conduct an inspection based on a suspicion rather than attempt to perform an inspection himself?
 - **Marshall:** To clarify, the issue was that the property owner suspected there were too many people living in a manufactured home.
 - **Dicks:** Under the Virginia Residential Landlord Tenant Act (VRLTA) , the lot owner would have the same rights as a landlord in any other circumstance to determine compliance with the landlord's reasonable occupancy schedules. In most tenant selection documents and lease documents, there usually is provision naming a maximum number of occupants in the dwelling unit. A manufactured home is treated as a dwelling unit under the VRLTA and the Manufactured Home Lot Rental Act. The landlord would have a right to enforce that occupancy schedule. If the landlord heard about or witnessed the overcrowding, the landlord could send a notice asking the tenant to return to compliance with the lease, otherwise the lot lease will be terminated. The landlord has some rights, but cannot unilaterally enter a home without notice using the VRLTA.
- **Ralston King, *Manufactured Housing Communities of Virginia*:** I represent manufactured housing park owner and managers; and we are eager continue to work on this issue.
- **Marshall:** How many parks are there and what percentage of them do you represent?
 - **King:** There are fifty various parks around Virginia of a wide variety of sizes.
- **Marra:** Those of us at the Virginia Poverty Law Center are very interested in this issue, and would like to be part of the discussion.

V. Public Comment

- **Delegate Marshall** asked for any public comment.

VI. Adjourn

- Upon hearing no request to comment, **Delegate Marshall** adjourned the meeting at 1:30 PM.